



February 15, 2000

Mr. Miles K. Risley
Senior Assistant City Attorney
Legal Department
City of Victoria
P. O. Box 1758
Victoria, Texas 77902-1758

OR2000-0544

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "act"). Your request was assigned ID# 132288.

The City of Victoria (the "city") received five requests for a variety of information, including several ordinances and statutes. You state that you have released several requested items, but claim that you are not required to produce the remainder of the requested information because you have no duty to perform research for the requestors or to produce information available commercially, citing section 552.027 of the Government Code.

We note that you contend that you have no duty to answer general questions, which you highlighted in the requests, or to do research, which you contend is required by the items in the requests you have marked with stars. Therefore, we presume that you are seeking to withhold only the highlighted and starred items. Because you do not object to the release of the remaining requested items, we assume that you have released those items to the requestor. Gov't Code § 552.221(a), *see* ORD 664 (2000).

Section 552.027 of the Government Code provides:

(a) A governmental body is not required under this chapter to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public.

(b) Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information.

(c) A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of a governmental body.

This section is designed to alleviate the burden of providing copies of commercially available books, publications, and resource materials maintained by governmental bodies, such as telephone directories, dictionaries, encyclopedias, statutes, and periodicals. The legislative history of this provision notes that section 552.002 should exclude from the definition of public information

books and other materials that are also available as research tools elsewhere to any member of the public. Thus, although *public library books* are available for public use, the library staff will not be required to do research or make copies of books for members of the public.

INTERIM REPORT TO THE 74TH LEGISLATURE OF THE HOUSE STATE AFFAIRS COMM., 74th Leg., R.S., SUBCOMMITTEE ON OPEN RECORDS REVISIONS 9 (1994) (emphasis added). Therefore, section 552.027 excludes commercially available research material from the definition of “public information.” We conclude that you need not produce publications or resource materials which are available at the public library.

You also contend that the city is not required to respond to certain items of the request because they are requests for answers to general questions. We agree that the act does not require a governmental body to answer factual questions, conduct legal research, or create new information in response to a request, but a governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision Nos. 563 (1990), 561 (1990), 555 (1990), 534 (1989). The highlighted requested items, other than those that are commercially available, are all essentially the same. Each item asks you to verify that there are no documents responsive to the preceding requested item, if that is the case. Where these request items follow request items to which you have responded, there *are* responsive documents, so the following “IF THERE ARE NO DOCUMENTS” request is extraneous. You need not respond to it. Where these request items refer to preceding requests for publications and resource materials available at the public library, again, there *are* documents which are responsive, but you are not required to produce them. As a courtesy and for purposes of clarity, you may choose to inform the requestors how you are

treating each requested item, but the act does not require you to do this. The requestors will receive a copy of this ruling.

In summary, you are not required to produce publications or resource materials available at a public library, nor are you required to perform legal research for a requestor or answer general questions. You must produce the information which you have not objected to producing, but you need not respond to the highlighted or starred request items.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/jc

Ref: ID# 132288

Encl. Submitted documents

cc: Mr. Gabriel J. Kuykendall
701 East Airline
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(w/o enclosures)

cc: Ms. Mary L. Kyuykendall
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